

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ OCT 16 2017 ★

BROOKLYN OFFICE

JMC RESTAURANT HOLDINGS, LLC; and
JMC RESTAURANT HOLDINGS
INTERNATIONAL, LLC,

Plaintiffs,

- against -

MARCELO PEVIDA; JIA JU TAO; JOSEPH
SILVESTRI; FRONT STREET RESTAURANT
CORP.; TAO INVESTMENT GROUP; and JIA
CAI LEWIN,

Defendants.

Civil Action No. 14-06157-WFK-VMS

ORDER

WILLIAM F. KUNTZ, II , United States District Judge:

WHEREAS, on June 23, 2017, JMC Restaurant Holdings, LLC and JMC Restaurant Holdings International, LLC (together, "Plaintiffs") filed a fully briefed motion to enforce a settlement by and between Plaintiffs; defendants Marcela Pevida, Jia Jun Tao, and Front Street Restaurant Corp. (collectively, "Defendants"), and third-party defendant Frank Ciolli, *see* Dkt. Nos. 152-59, as expressed in a written settlement stipulation (the "Settlement Stipulation") signed by the parties on October 4, 2016, *see* Dkt. No. 154-1; and

WHEREAS, on September 28, 2017, the Honorable Magistrate Judge Vera M. Scanlon issued a Report and Recommendation recommending that this Court grant Plaintiffs' motion to enforce the parties' settlement agreement as expressed in the Settlement Stipulation, *see* Dkt. No. 169; and

WHEREAS, on October 3, 2017, this Court ordered the parties to show cause why an order should not be entered granting Plaintiffs' motion to enforce the settlement agreement; ordering Defendants to comply with the settlement agreement terms and conditions, as expressed

in the Settlement Stipulation; vacate the premises at 1 Front Street (a/k/a Cadman Plaza West), Brooklyn, New York 11201; and pay all reasonable attorneys' fees in connection with the order to show cause; and

WHEREAS, the parties appeared before this Court on October 6, 2017 and presented argument regarding the motion to enforce the settlement agreement;

IT IS HEREBY ORDERED that this Court accepts in whole the findings and recommendation of the Report and Recommendation issued by Judge Vera M. Scanlon and dated September 28, 2017;

IT IS FURTHER ORDERED that Plaintiffs' motion to enforce settlement is GRANTED;

IT IS FURTHER ORDERED that the settlement of Plaintiffs, Defendants, and third-party defendant Frank Ciolli is binding and effective as expressed in the Settlement Stipulation, which is appended to this Order;

IT IS FURTHER ORDERED that the representations, warranties, obligations, and releases under the Settlement Stipulation are binding and effective as of December 9, 2016.

IT IS FURTHER ORDERED that all rights, title, interest, and claims of Defendant Front Street Restaurant Corp. under its lease with 27 Old Fulton Street, LLC for the premises at 1 Front Street (a/k/a Cadman Plaza West), Brooklyn, New York 11201 are waived, released, null and void.

IT IS FURTHER ORDERED that Defendant Front Street Restaurant Corp. immediately vacate the premises at 1 Front Street (a/k/a Cadman Plaza West), Brooklyn, New York 11201 and deliver possession to 27 Old Fulton Street, LLC.

IT IS FURTHER ORDERED that final judgment of possession of 1 Front Street (a/k/a Cadman Plaza West) is awarded to 27 Old Fulton Street, LLC.

IT IS FURTHER ORDERED that a warrant of eviction issue forthwith and the marshal/sheriff is directed to execute the warrant upon receipt.

IT IS FURTHER ORDERED that Defendant Front Street Restaurant Corp. cause the Petition for Cancellation it filed in Trademark Trial and Appeal Board Cancellation No. 92066606 to be dismissed with prejudice.

IT IS FURTHER ORDERED that Defendants and third-party Frank Ciolli cause all claims and actions filed in any other court or arbitration against each other, or any company which Frank Ciolli is an owner, to be discontinued and/or dismissed with prejudice.

IT IS FURTHER ORDERED that Defendants submit by ECF a certification of its compliance with the directions of this Order by no later than October 9, 2017.

IT IS FURTHER ORDERED that in accordance with the bundling rule, Plaintiffs shall serve upon Defendants, within five days of the entry of this order, such declarations and evidence supporting their request for payment by Defendants of Plaintiffs' reasonable attorneys' fees and costs incurred in connection with the Order to Show Cause; Defendants shall have five days to serve upon Plaintiffs any opposing papers; and Plaintiffs shall have three days to serve reply papers; Plaintiffs shall thereafter file all papers by ECF commensurate with serving its reply papers.

SO ORDERED.

s/ WFK


WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: October 6, 2017
Brooklyn, New York